COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 15, 2000

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION CASE NO. PUE980814

Ex Parte: In the matter of
considering an electricity
retail access pilot program –
American Electric Power – Virginia

FINAL ORDER

On March 20, 1998, the State Corporation Commission ("Commission") entered an Order establishing an investigation requiring various parties to perform activities and provide information to assist the Commission in moving forward in the evolving world of electric utility restructuring.[1] Among other things, this Order required American Electric Power-Virginia ("AEP-VA" or "the Company") and Virginia Electric and Power Company ("Virginia Power") to begin work toward implementing at least one retail access pilot program ("Pilot Program") each. On November 2, 1998, AEP-VA and Virginia Power filed Pilot Programs in Case No. PUE980138.

[1] This Order and other related documents may be found in Commonwealth of Virginia ex. rel. State Corporation Commission, Ex Parte: In the matter of requiring reports and actions related to independent system operators, regional power exchanges and retail access pilot programs, Case No. PUE980138.

On December 3, 1998, the Commission established three separate dockets, one each for the consideration of AEP-VA's and Virginia Power's Pilot Programs[2], and a docket to consider the adoption of interim rules to govern issues common to both natural gas and electricity retail access pilot programs, including certification, codes of conduct, and standards of conduct governing relationships among entities participating in such programs ("Pilot Program Rules").[3] The December 3, 1998, Order Establishing Procedural Schedule in this matter, Case No. PUE980814, assigned the case to a Hearing Examiner, set a hearing for June 22, 1999, and established a schedule for the filing of testimony, protests, and other documents in this case. The Order also required AEP-VA to publish throughout its service territory notice of the impending hearing and information on participation.

By Hearing Examiner's Ruling dated June 8, 1999, the evidentiary hearing was rescheduled to November 9, 1999, and other procedural dates were moved to accommodate the filing of a

[2] The docket for consideration of Virginia Power's Pilot Program is Commonwealth of Virginia At the relation of the State Corporation Commission, Ex Parte: In the matter of considering an electricity retail access pilot program – Virginia Electric and Power Company, Case No. PUE980813. A Final Order in this case was issued April 28, 2000, Document Control No. 000440141.

[3] The docket for consideration of rules applicable to both natural gas and electricity retail access pilot programs is Commonwealth of Virginia At the relation of the State Corporation Commission, Ex Parte: In the matter of establishing interim rules for retail access pilot programs, Case No. PUE980812. A Final Order in this case was issued May 26, 2000, Document Control No. 000530236.

revised Pilot Program and to allow the parties time to analyze and respond to this revised filing.

The hearing was conducted on November 9-10, 1999, before Hearing Examiner Howard P. Anderson, Jr. Anthony Gambardella, Esquire, and James R. Bacha, Esquire, represented AEP-VA at the hearing. Kodwo Ghartey-Tagoe, Esquire, and Karen L. Bell, Esquire, appeared on behalf of Virginia Power. Edward L. Petrini, Esquire, represented the Old Dominion Committee for Fair Utility Rates ("ODC").[4] John F. Dudley, Esquire, appeared on behalf of the Office of the Attorney General, Division of Consumer Counsel ("Attorney General"). Marleen L. Brooks, Esquire, represented The Potomac Edison Company, d/b/a Allegheny Power. Robert Omberg, Esquire, and John Pirko, Esquire, appeared as counsel for the Virginia Cooperatives.[5] M. Renae Carter, Esquire, and William H. Chambliss, Esquire, represented the Commission Staff ("Staff"). Michel A. King appeared *pro se*.

[4] Members of the Old Dominion Committee are: Celanese Acetate, LLC; Dan River Mills; First Brands Corp.; Georgia-Pacific Corporation; Goodyear Tire & Rubber Company; Griffin Pipe Products Co.; Lorillard, Inc.; R. R. Donelley; Rock-Tenn; and Greif Bros./Virginia Fibre Corporation.

[5] The Virginia Cooperatives is a group consisting of A&N Electric Cooperative; BARC Electric Cooperative; Community Electric Cooperative; Craig-Botetourt Electric Cooperative; Mecklenburg Electric Cooperative; Northern Neck Electric Cooperative, Inc.; Northern Virginia Electric Cooperative; Powell Valley Electric Cooperative; Prince George Electric Cooperative; Rappahannock Electric Cooperative; Shenandoah Valley Electric Cooperative and Southside Electric Cooperative, Inc.; Old Dominion Electric Cooperative; and Virginia, Maryland & Delaware Association of Electric Cooperatives.

Enron Energy Services, Horizon Energy Company d/b/a Exelon Energy and Exelon Management & Consulting, the National Energy Marketers Association, and Washington Gas Light Company filed notices of protest but did not file protests and did not participate in the hearing. The Southern Environmental Law Center filed both a notice of protest and protest but did not participate in the hearing.

AEP-VA's Pilot Program, as proposed, would allow a limited number of customers to select an alternative electricity supplier as part of a transition to full retail choice. Phase I of the proposal, which had been scheduled to begin on or about June 1, 2000, would involve about two percent (2%), or 50 MW, of the Company's Virginia jurisdictional load. Phase II, scheduled to begin on March 1, 2001, would increase participation to ten percent (10%), or 250 MW, of the Virginia jurisdictional load. AEP-VA expects that, by the start of Phase II, the Company will have sufficient infrastructure and information systems in place to be able to accommodate the expansion. The Pilot Program would be available to all customer classes throughout the Company's entire service territory. The Pilot Program also would include a component for pre-aggregated loads to encourage participation by smaller energy users and would utilize projected market prices based upon historical wholesale prices as found at the "into" Cinergy hub.

The Staff recommended increasing the size of Phase I of the Pilot Program to five percent (5%) of AEP-VA's jurisdictional load. Like the Company, the Staff agreed that the projected market price for generation should be based upon historical wholesale data but proposed a method whereby prices from five hubs or trading areas would be used to calculate projected market price. Additionally, though the Company sought to subtract from projected market prices the cost of transmitting electricity to various hubs, the Staff's proposal made no such adjustment.

The Staff also requested guidance concerning whether AEP-VA's proposed $5 fee for customers who switch between competitive service providers ("CSPs") would violate the rate cap provisions of § 56-582 of the Code of Virginia. The Staff requested that the Company be required to report on a number of Pilot Program related issues, including market share information of participating CSPs and, where available, a comparison of market offers by participating CSPs. Finally, the Staff advocated the use of a negative wires charge as necessary to comply with the statutory provisions of § 56-583 A of the Code of Virginia.[6]

[6] The Company strongly objected to the Staff's proposed use of a negative wires charge, arguing that a negative wires charge would violate provisions of the Virginia Electric Utility Restucturing Act ("Restructuring Act"), §§ 56-576 to -595 of the Code of Virginia. The Company asserted that wires charges, to the extent they exceed zero, are intended to allow the incumbent

The Attorney General requested that the Pilot Program size be increased during Phase I to encompass five percent (5%) of AEP-VA's overall customer load, with an additional two percent (2%) set aside for aggregation. The Attorney General advocated that Phase II of the Pilot Program begin in January 2001 instead of March 2001 as the Company proposed. The Attorney General also argued that eligibility was unevenly distributed among customer classes and that more residential and small commercial customers should be allowed to participate in the Pilot Program. Concerning projected market price for generation, the Attorney General contended that if wholesale market prices are higher than AEP-VA's unbundled generation rates, no customers would leave AEP-VA's system. The Attorney General contended that projected market prices should reflect retail, rather than wholesale, market prices. The Attorney General also recommended using historical price data based on data from the Pennsylvania-New Jersey-Maryland interconnection with a futures adjuster to project future market prices. The Attorney General did not oppose competitive metering and billing for large customers during the Pilot Program. The Attorney General took no position

utilty to collect its stranded costs and that crediting a negative wires charge against AEP-VA's distribution revenues would result in cost-shifting between the generation and distribution functions, also violating the Restructuring Act.

concerning whether negative wires charges should be allowed during the Pilot Program.

ODC advocated increasing Phase I of the Pilot Program to five percent (5%) of the Company's load and starting Phase II of the Pilot Program on January 1, 2001. ODC urged that AEP-VA's allocation of Pilot Program load to each customer class should be expanded proportionally to accommodate this increase. ODC also requested that an individual Large Power Service ("LPS") customer be allowed to seek competitive supply for up to 30 MW of its load. While ODC agreed that customers should be permitted to self-supply ancillary services pursuant to AEP-VA's tariffs on file with the Federal Energy Regulatory Commission ("FERC"), ODC urged that AEP-VA should remove the costs associated with those services from the wires charge for each customer. Finally, concerning the projected market price for generation, ODC proposed that a factor for capacity be included in the calculation of the market price.

Virginia Power urged that the Commission reject the Staff's proposal for a negative wires charge. Virginia Power also advocated rejection of the ODC and Attorney General proposals for determining projected market price, claiming that these alternative methods would artificially inflate market prices, thereby distorting economic signals to customers concerning whether it would benefit them to shop in the competitive market.

Michel King argued that the Commission should reject AEP-VA's proposal for special distribution charges for prospective Pilot Program participants where these participants are served by special distribution facilities. He also advocated that the Commission should reject AEP-VA's proposal to require interval meters for all Pilot Program customers with average monthly billing demands of 200 MW or more. Mr. King further requested that the Commission order AEP-VA to use language throughout its Pilot Program tariff to reflect the Company's liability for equipment "which is not owned, installed or maintained by the Company" (emphasis added).[7] Finally, Mr. King agreed with the use of a negative wires charge.

Allegheny Power did not provide its own witness for the hearing but expressed its concern over the Staff's negative wires charge proposal. The Cooperatives, likewise, did not provide a witness for the hearing but observed the hearing to educate themselves about Pilot Program matters.[8]

[7] The Company's proposed Pilot Program tariff reads in pertinent part, "owned, installed and maintained . . ." (emphasis added). Exhibit BLT-2, Attachment I, at 8.

[8] Tr. at 32. Rappahannock Electric Cooperative has filed its own application to conduct a competitive retail access pilot program. Documents pertaining to its proposal can be found in Application of Rappahannock Electric Cooperative For Approval of an Electricity Retail Access Pilot Program, Case No. PUE000088.

On March 10, 2000, the Hearing Examiner issued his Report.[9] His findings were as follows:

> (1) AEP-VA's Pilot Program, as modified [in the Hearing Examiner's Report], should be adopted;
>
> (2) Participation in Phase I of the Pilot Program should be set at a level not greater than 5% of the Company's Virginia jurisdictional customers;
>
> (3) Consumer Counsel's [Attorney General's] proposal that Phase I of the Pilot Program be increased to 5% of annual kWh sales plus an additional 2% of the annual sales for residential and small commercial classes as a minimum set-aside for aggregated loads should be denied;
>
> (4) ODC's proposal to increase participation limits for individual LPS customers from 15 MW to 30 MW should be denied;
>
> (5) Participation in Phase II of the Pilot Program should remain at 10% of the Company's Virginia jurisdictional customers and commence on or about March 1, 2001;
>
> (6) Staff's proposal for a negative wires charge should be denied;
>
> (7) The projected market prices for generation should be determined following the methodology set forth [in the Report];
>
> (8) The projected market prices should be determined 90 days prior to the beginning of each phase of the Pilot Program;

[9] Report of Howard P. Anderson, Jr., Hearing Examiner, issued March 10, 2000, Document Control No. 000320181 (hereinafter "Hearing Examiner's Report").

(9) The projected market price should not contain adjustments related to the Company's transmission costs;

(10) Unbundled transmission rates for the Pilot Program should reflect the FERC OATT [Open Access Transmission Tariff]. Differences between the FERC OATT and the Company's jurisdictional unbundled transmission cost of service should not be treated as a transition cost;

(11) Competitive metering and billing services should be permitted only for large commercial and industrial customers during the Pilot Program;

(12) The Company should report information on a semiannual basis to Commission Staff regarding alternative metering and billing;

(13) The terms and conditions of the Pilot Program should be modified to comply with the rules adopted by the Commission in Case No. PUE980812;

(14) The Company should provide Staff with detailed data relating to its balancing and settlement procedures;

(15) The Company should not be required to report information to Staff regarding market offers to the extent this information is available to the general public;

(16) The Company's proposed $5.00 switching fee should be denied. The Company should compile data pertaining to the costs associated with switching customers between CSPs and report this information to Staff;

(17) The Company's charges for meter accuracy testing should remain as set forth in the Company's current tariff;

(18) Except as specifically addressed herein, the Company should report on a

semiannual basis all information requested by Staff;

(19) The Company should not be allowed to assess special distribution charges, distribution surcharges, or prepayment of otherwise amortized distribution charges absent a contract or special agreement;

(20) The Company should be allowed to require interval meters for all customers with average monthly billing demands of 200 kW or greater; and

(21) The Company's language pertaining to liability for any loss, injury, or damage to persons or property caused by equipment which is not owned, installed and maintained by the Company is reasonable.

The Hearing Examiner recommended that the Commission enter an order adopting his findings, approving AEP-VA's Pilot Program as modified in the Hearing Examiner's Report, and dismissing the case from the Commission's docket of active cases.

On March 31, 2000, AEP-VA, Virginia Power, the Attorney General, ODC, and the Commission Staff filed comments and exceptions to the Hearing Examiner's Report. On April 6, 2000, Michel King filed Comments on the Hearing Examiner's Report along with a Request for Leave to File Comments on Hearing Examiner's Report Out of Time.

AEP-VA supported the Hearing Examiner's recommendation not to impose a negative wires charge. The Company argued that, where the projected market price of generation is greater than the capped generation rate of the incumbent utility, there is no

"mathematical conundrum" as the Hearing Examiner described; § 56-583 A simply does not apply. The Company also advocated that the Hearing Examiner's Report not be read to allow distribution rates to be adjusted downward to offset a projected market price that is higher than the incumbent electric utility's capped generation rate. AEP-VA continued to support basing the projected market price for generation upon historical wholesale prices as found at the "into" Cinergy hub and took issue with the Hearing Examiner's recommendation to include the TVA hub in the methodology. AEP-VA also maintained that transmission costs to deliver power to trading hubs should be deducted from generation revenues developed using the Company's projected market prices. The Company also claimed that the Commission should permit recovery of the difference between the Company's FERC OATT rates and the unbundled Virginia jurisdictional transmission rates. The Company contended that the Commission should remove inter-class subsidies from present rates and should reject basing Pilot Program tariffs on the rates as approved in the settlement agreed upon in the Company's last rate case.[10] The Company argued that Staff Witness E. B.

[10] See Final Order, Commonwealth of Virginia At the relation of the State Corporation Commission, Ex Parte: Investigation of Electric Industry Restructuring – Appalachian Power Company, issued February 18, 1999, Document Control No. 990220234, in Case No. PUE960301. The actual stipulation is Exhibit A to the Motion for Consideration of Stipulation in this case and was filed on January 11, 1999, Document Control No. 990110223.

Raju's calculations of settlement rates was incorrect. AEP-VA urged that the Pilot Program size remain as originally proposed to minimize the cost of "throw-away" systems, short-term interim solutions that would not be used to support retail access on a long-term basis. Regarding ancillary services, the Company argued that it should not be required to deduct competitive ancillary services from the wires charge calculation. The Company also urged the Commission to allow competitive metering and billing for all customer classes. AEP-VA clarified that it did not oppose direct contracts between metering and billing providers and customers. Instead, the CSP should coordinate Pilot Program enrollment so there would not be multiple enrollment transactions for a single customer. The Company continued to advocate the collection of a $5 fee for customers who switch CSPs during the Pilot Program.

Virginia Power supported the use of historical short-term spot market prices, without a retail adder, when developing the projected market price for generation, and agreed with the Hearing Examiner's recommendations concerning wires charges. Virginia Power urged the Commission to adopt AEP-VA's proposed adjustment for transmission losses, transmission charges, and ancillary service charges when determining projected market prices for generation. Virginia Power also argued that no incumbent utility should be required to make metering and

billing services open to competitors as part of a Pilot Program. Concerning the $5 fee for customers who switch between CSPs during the Pilot Program, Virginia Power asserted that this is a fee for a new service and thus the rate cap provisions of § 56-582 A 3 do not apply.

The Attorney General took issue with the Company's proposed method for determining class participation. While AEP-VA had attempted to allocate class participation by balancing several factors including demand, energy, and number of customers per class, the Attorney General contended that this allocation was inequitable to residential and small commercial customers, and thus violated the Restructuring Act.[11] The Attorney General agreed with the Hearing Examiner's recommendation that Phase I of the Pilot Program should include at least five percent (5%) of the Company's total Virginia jurisdictional load but continued to advocate that Phase I include another two percent (2%) of annual sales as a set-aside for aggregated loads. Concerning projected market price, the Attorney General urged that historical prices should be adjusted, plus or minus ten percent (10%), for reasonably expected future price inflation or deflation. The Attorney General also argued that the Commission should not allow AEP-VA to recover, as an adder, the difference

[11] See § 56-577 A 2 b of the Code of Virginia.

between the Company's FERC OATT transmission rate and the transmission costs embedded in the Company's Virginia jurisdictional retail rates. The Attorney General supported the Hearing Examiner's recommendation to use the settlement rates from the Company's last base rates case to develop pilot tariffs, stating that the Company's proposed unbundling methodology implies that inter-class subsidies have been found to exist, when the Commission has made no such determination. The Attorney General also supported the Hearing Examiner's recommendation that competitive metering and billing should not be permitted for small commercial and residential customers participating in the Pilot Program because this may unnecessarily confuse participants instead of boosting confidence in retail choice. Finally, the Attorney General urged that customer class participation data provided to the Staff should be reported in a publicly available form.

ODC supported the Hearing Examiner's proposal to increase the size of Phase I of the Pilot Program to five percent (5%) of AEP-VA's jurisdictional load. ODC also urged the Commission to adopt the Hearing Examiner's recommendation to follow the Company's balancing method for allocating each customer class' eligibility for Pilot Program participation. ODC asserted that the Commission need not decide upon a methodology for determining projected market price if it accepts the Hearing

Examiner's recommendation that the wires charge should be set at zero. However, if the Commission should decide otherwise, ODC recommended that projected market price be based upon the "all-in" cost of generation, which includes capital costs, operation and maintenance expenses, overhead, and fuel. ODC also argued that the Commission should adopt the Hearing Examiner's recommendation that AEP-VA permit the self-supply of ancillary services if self-supply is permitted under the FERC OATT and that the revenue requirement for all six ancillary services should be removed from AEP-VA's wires charge calculations.

The Commission Staff took issue with the Hearing Examiner's recommendation to use the Cinergy and TVA hubs when determining the projected market price for generation, claiming that the Staff's proposed five-hub approach already takes into account the fact that the Company may not be able to achieve the maximum on-peak price for incremental power. The Staff supported the Hearing Examiner's recommendation to disallow any adjustment to projected market price for transmission wheeling costs and agreed with the Hearing Examiner that competitive metering and billing should be permitted for large commercial and industrial customers but sought clarification regarding exactly which classes of customers were included in these categories. The Staff affirmed its position that Pilot Program tariffs should utilize the rate structure reflected in Case No. PUE960301.

Finally, the Staff stated that it would not at this time advocate the use of a negative wires charge due to recent amendments to the Restructuring Act.

Michel King supported the recommendations concerning increasing Phase I of the Pilot Program to five percent (5%) of the Company's jurisdictional customers; utilizing more than one trading hub for determining projected market price; using unbundled transmission rates that reflect the FERC OATT; and denying AEP-VA's request to assess special distribution charges, distribution surcharges, or to require prepayment of otherwise amortized distribution charges absent a contract or special agreement. Mr. King requested clarification on the latter issue, urging the Commission to require AEP-VA to unbundle the rates in existing contracts with customers who are served by special distribution facilities so that these customers will have the necessary information to participate in the Pilot Program.

Concerning whether customers using greater than 200 kW of energy should have to purchase interval meters, Mr. King asserted that the Company does not need more accurate information than it currently receives and that requiring customers to purchase interval meters would create a barrier to competition. Mr. King also urged that, if the Commission accepts the Hearing Examiner's recommendation that negative

wires charges should not be allowed during the Pilot Program, the Commission should require AEP-VA to propose an alternative mechanism for preventing over-recovery of net stranded costs.

NOW THE COMMISSION, having considered the record, the Hearing Examiner's Report, the comments and exceptions to the Hearing Examiner's Report, and the applicable law, is of the opinion and finds that we should adopt in part the findings and recommendations set forth in the Hearing Examiner's Report, as discussed below.

The General Assembly has established an ambitious schedule for the implementation of customer choice and the development of competition for the generation component of retail electric service. In light of this schedule, the Pilot Program serves a number of purposes. First, the Pilot Program should stimulate retail access, customer choice and competition. Second, the Pilot Program should be part of the transition to full customer choice and competition. Third, the Pilot Program should help identify actual and potential operating problems between and among incumbent utilities, CSPs, aggregators, and customers, as well as possible solutions. Fourth, the Pilot Program should help identify areas and operations that may limit or inhibit the development of competition and possible solutions and ways to enhance competition. These purposes have been important considerations in our establishment of the AEP-VA Pilot Program.

Applicability

At the outset, we note that this Final Order addresses issues related only to the Company's Pilot Program. The decisions made and reports required herein on various issues are designed to make the Pilot Program as effective as possible and to provide the Commission with the data necessary to learn as much as possible about the competitive energy marketplace before the start of full-scale retail choice. The parameters established herein will terminate at the end of the Pilot Program period. As necessary in the future, the Commission will reexamine these parameters and any other issues that arise to determine their applicability to the start of full-scale customer choice.

Pilot Program Size, Timing, and Class Allocation

The Hearing Examiner recommended that Phase I of the Pilot Program should be composed of up to five percent (5%) of AEP-VA's jurisdictional load. He found that increasing this level from two percent (2%) would not present a significant technical hardship for the Company because its corporate parent, American Electric Power Company Inc. ("AEP"), is developing an infrastructure in its Ohio service territory that will provide the capability to deal with a much higher number of potential participants in retail choice in that state. The Hearing Examiner also found that, since customers throughout AEP-VA's

service territory will be eligible to participate in the Pilot Program, the geographic spread of potential Pilot Program participants will make it more difficult for CSPs to be profitable. He recommended increasing the number of potential participants to dilute the negative impact of the geographic size of the Pilot Program and attract potential CSPs to the Pilot Program.

He also recommended that Phase II of the Pilot Program should start on or about March 1, 2001. He stated that it would strain AEP's resources to start Phase II of the Pilot Program on January 1, 2001, since this is the start date of full retail choice in Ohio. The delay, according the Hearing Examiner, would allow the Company time to ensure that its Information Technology ("IT") infrastructure is working smoothly and to minimize the short-term interim systems it may need to serve Virginia's customers.

We find that we should adopt the Hearing Examiner's recommendation in full in this regard. We find that setting the Phase I Pilot Program level at five percent (5%) may attract more CSPs at the start of the Pilot Program. We also find that Phase II of the Pilot Program should start on March 1, 2001, and should involve ten percent (10%) of the Company's Virginia jurisdictional load.

Some parties expressed confusion, in their comments and exceptions to the Hearing Examiner's Report, concerning the allocation of class participation in the Pilot Program.[12] This confusion stems from two statements in the Hearing Examiner's Report, the first of which reads, "[T]he Company's methodology used to determine customer participation levels should be adopted because it balances each factor in an effort to provide equitable participation levels for customers of all sizes and classes."[13] The second statement reads, "The Company should offer equal proportions of load for pilot participation in each participating rate class."[14] These statements may appear confusing because, as proposed, the Company allocated participation by class based on a balancing of factors including energy, demand, and number of customers in each class. This method created different participation levels for each class. For example, as proposed, Phase I of the Pilot Program would involve two percent (2%) of the Company's jurisdictional load. But this did not mean that 2% of each class' load necessarily

[12] Comments of the Old Dominion Committee for Fair Utility Rates on the Hearing Examiner's Report, filed March 31, 2000, Document Control No. 000410012, at 4-9; Comments on the Hearing Examiner's Report by the Division of Consumer Counsel, Office of the Attorney General, filed March 31, 2000, Document Control No. 000410021, at 1-5.

[13] Hearing Examiner's Report at 7.

[14] Id. at 7-8.

would participate.[15] The parties expressed confusion concerning whether the Hearing Examiner's Report indicated that class participation should be allocated by load or by the Company's proposed balancing technique.

We find that class participation should be allocated proportionally based upon the total number of kWh for each class for this Pilot Program. Thus, five percent (5%) of the kWh for each class should be subject to competition in Phase I. We will not adopt the Attorney General's suggestion that we set aside an additional two percent (2%) for aggregated loads. Finally, we will also reject the suggestion of ODC that an individual customer's participation level be increased from 15 MW to 30 MW. Increasing the Company's proposed limit as ODC requests may allow a few customers to dominate Pilot Program participation.

Projected Market Price for Generation

The Hearing Examiner found that projected market prices for generation should be calculated using the higher of the daily historical spot market prices found at the Cinergy and TVA hubs for a specified time period. He stated that this methodology is straightforward and eliminates the need for many assumptions.[16]

[15] Out of the 50 MW allocated to retail choice during Phase I, the Company proposed to allow up to 8 MW of load from the residential and small commercial class, 2 MW of pre-aggregated load, 5 MW of the commercial load, and 35 MW of industrial load to be subject to competitive supply.

[16] For example, if the Attorney General's suggested retail adder method were used, the Hearing Examiner found that problems would arise concerning the

He selected the Cinergy and TVA hubs because AEP has direct transmission access and trades through these hubs. The Hearing Examiner explained that this two-hub method also would account for transmission constraints and the fact that the Company will not always achieve the maximum on-peak price for its incremental power. He further found that prices should not be adjusted to account for transmission and ancillary service costs, concluding that such treatment is consistent with the "for generation" language of the Restructuring Act.[17]

We find that, for purposes of the Pilot Program, it is appropriate to base projected market prices on wholesale historical spot market purchases of electricity. The question of which hubs to use when considering historical spot market purchases was an issue of some debate throughout this case.

AEP-VA is a subsidiary of AEP, a company that is a sophisticated trader in numerous energy markets. Evidence in the record reflects that AEP has access to as many as 16 or 17 trading hubs or areas.[18] The Staff proposed a method that would utilize the highest daily prices found at five of these areas.

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continually changing nature of forward-looking prices and the arbitrary point in time at which the values of forward-looking prices would be selected. See Hearing Examiner's Report at 9.

[17] Section 56-583 A of the Code of Virginia consistently refers to "projected market prices for generation . . ." (emphasis added).

[18] See tr. at 170-71; Exhibit HMS 11, Attachment 2.

Even if the Staff's five-hub method were used, presumably there would be times when the Company could and would trade at some of the 11 or 12 other trading areas for higher prices than at the five areas the Staff used in its analysis. This reality of market activity dilutes the concern that the Staff's five-hub method assumes the Company could always sell into the highest-priced trading hub or area.

We understand the Company's concern, however, and find that for this Pilot Program, the projected market price for generation should be set by considering the market prices at each of the five trading hubs or areas used in the Staff's five-hub method, *i.e.*, at the Cinergy, TVA, "into" ComEd, "into" ECAR Northern, and "into" MAIN Southern hubs or trading areas. We will base the projected market price on the average of the two of these five trading areas with the highest market prices.

This method ameliorates AEP-VA's concerns about the assumption that the Company could always sell into the highest priced hub and accounts for the Company's access to 16 or 17 energy trading markets. We are not unmindful of the Company's contention that transmission constraints sometimes prevent sales to the highest-priced trading area. However, periodic transmission constraints are simply part of the electric transmission system no matter what hub or trading area a company selects and there is no way to eliminate this condition. We

believe that our proposed method for determining market price balances all of these considerations.

We will not adopt the proposed adjustments related to the Company's transmission losses, transmission charges, and other ancillary service costs. We find it impossible to make such adjustments at this time. As part of meeting its burden of proof, AEP-VA was obligated to provide at least enough evidence to enable the Commission to determine and analyze the basis for these costs. However, the record here was insufficient for any party to analyze and for the Commission to make any reasonable determination concerning what these costs were or how such costs should be treated in the calculation of projected market prices. Information relating to transmission wheeling costs was first mentioned in the November 3, 1999, rebuttal testimony of Company witness Laura J. Thomas, submitted just six days prior to the hearing.[19] The amount of transmission wheeling costs to deliver power to the Cinergy hub was included in Ms. Thomas' schedules. When questioned about the source for these costs, Ms. Thomas referred to the direct testimony of Company witness Dennis W. Bethel.[20] However, the calculations referred to in Mr. Bethel's testimony were the transmission and ancillary service revenues required to supply power from AEP's generation facilities to

[19] Exhibit LJT-18, schedule 2.

[20] Tr. at 340, 345-46.

AEP-VA's jurisdictional retail customers.[21] The transmission and ancillary service costs that the Company actually seeks to deduct from the hub market price, however, should be the costs the Company would incur to transfer power from AEP's generation facilities to the appropriate hubs, such as the Cinergy hub. Thus, the record does not support a determination of the costs AEP-VA must incur to ship power from AEP's generation facilities to market hubs. In short, AEP-VA failed to carry its burden of proof with regard to these costs. Therefore, we are excluding this adjustment for these costs from the determination of projected market prices for generation in the Pilot Program.

We are cognizant that the Virginia General Assembly has enacted legislation that amends § 56-583 A of the Code of Virginia to require that projected market prices for generation be adjusted for the projected cost of transmission, transmission line losses, and ancillary services subject to the jurisdiction of the FERC, which the incumbent electric utility (1) must incur to sell its generation and (2) cannot otherwise recover in rates subject to state or federal jurisdiction.[22] We direct that AEP-VA work with the Commission Staff to track and study any transmission losses, transmission charges, and other ancillary service costs incurred during and related to its Pilot Program.

[21] Exhibit DWB-4, Schedule 2.

[22] 2000 Va. Acts ch. 991.

We will require AEP-VA to submit, on or before April 1, 2001, a detailed report as to the magnitude and basis for these costs. In this way the Commission, the Company, and the public may be better informed about how to quantify and consider these costs as we approach the start of statewide retail choice. The Commission will provide the Company ample opportunity to present its case in full with respect to these issues prior to the advent of customer choice on a permanent, full-scale basis.

We note that the Pilot Program originally was scheduled to start on or about June 1, 2000. To give the Staff an opportunity to work with the Company in setting the projected market price for generation and to allow the Company time to conform its Pilot Program to the Pilot Program Rules established in Case No. PUE980812, we shall set a Pilot Program start date of October 1, 2000. We will not reset the projected market price for generation for Phase II of the Pilot Program. Rather, sixty (60) days before the start of Phase I, a projected market price for generation will be set and will remain constant throughout the Pilot Program.

Transmission Costs and Transition Charges

The Restructuring Act sets out the formula for determining wires charges, which may include just and reasonable transition charges. AEP-VA proposes to develop its unbundled rates for generation and the resulting wires charges in a manner that

provides for the recovery of what it deems to be a transition cost. Specifically, AEP-VA proposes to base charges for transmission service associated with the Pilot Program on its FERC OATT. These charges are expected to produce a different amount of revenue than that produced by the unbundled transmission component of the Company's Virginia jurisdictional retail rates. Consequently, AEP-VA believes that the difference between the FERC OATT based rates and the transmission component of retail rates should be treated as a transition cost.

Under § 56-583 A of the Code of Virginia, wires charges are the sum of (i) the difference between the incumbent utility's capped unbundled rates for generation and the Commission-determined projected market price for generation, plus (ii) just and reasonable transition costs. The sum of a utility's wires charges, the unbundled charge for transmission and ancillary services, the applicable distribution rates, and the Commission-determined projected market price for generation cannot exceed the utility's total capped rate.

Whether to allow, as a transition cost, the recovery of the difference between the revenues based on the FERC OATT and the Company's unbundled Virginia jurisdictional transmission rate was a significant issue for some parties.[23] The Company stated

[23] In AEP-VA's Response to Hearing Examiner's Report, AEP-VA urged the Commission to allow recovery of these lost transmission revenues. See AEP-VA Response to Hearing Examiner's Report, March 31, 2000, Document Control

that it needs to recover this difference because disallowance of such recovery would effect a rate reduction.[24]

The Hearing Examiner found that unbundled transmission rates are subject to FERC regulation and must follow the FERC OATT. He recommended that shortfalls between the FERC OATT and the Company's Virginia jurisdictional cost of transmission should not be treated as a transition cost or be charged against the generation component of rates because this would constitute cross-subsidization or cost shifting by moving a transmission cost into generation rates.[25]

This same issue was before us when considering Virginia Power's Pilot Program. As we said there, it appears that § 56-583 A assumes that the utility would recover the wires charges, and the "charge for transmission and ancillary services, the applicable distribution rates established by the Commission and the . . . projected market price for generation . . . ." While the Company would be at risk for whether it recovered the "projected market prices for generation," the other elements

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No. 000410004, at 6-7. The Attorney General argued, to the contrary, that these lost transmission revenues should not be added to unbundled generation revenues. See Comments on the Hearing Examiner's Report by the Division of Consumer Counsel, Office of the Attorney General, filed March 31, 2000, Document Control No. 000410021, at 9-10.

[24] See AEP-VA's Response to Hearing Examiner's Report, filed March 31, 2000, Document Control No. 000410004, at 7.

[25] See Hearing Examiner's Report at 12.

appeared to be charges that it was assumed the utility would routinely recover.

It appears that the Company will collect less revenue by the application of the FERC OATT than it would have through the transmission component of the unbundled retail rate. It is not clear whether this difference constitutes a "transition cost." We will, however, treat it as such for this Pilot Program.[26] We will adopt the method proposed by the Company to achieve this, the residual method[27] of determining the unbundled generation rate.

We will reexamine this entire issue, including the propriety of the use of the residual method, in general, prior to the transition to full customer choice. The review will focus on whether this difference is a true transition charge

[26] We note that, unless there have been dramatic changes in market prices since the hearing in this case, we expect that, even with this transition charge, the calculations that must be made to determine wires charges pursuant to § 56-583 A of the Code of Virginia will yield a negative number, resulting in a wires charge of zero for pilot participants.

[27] In developing its unbundled rates including the unbundled generation component of rates, the Company began with a cost of service study that developed unbundled production, transmission, distribution, energy, and customer related unit costs for the various rate classes. These results were, however, not directly applicable to the development of unbundled rates, given the Company's proposal to collect the difference between the FERC OATT and the Virginia jurisdictional transmission component. To achieve this, AEP-VA applied a residual method which generally subtracted the sum of the customer and distribution unit costs produced by the cost of service study and the FERC OATT based rates for transmission and ancillary services from current rates for each class to determine a "residual" unbundled generation rate. This unbundled generation rate was used to determine the wires charge.

and, if so, when the "transition" will be complete. We will also examine the amount of the difference.

When utilizing the residual method for determining AEP-VA's embedded generation rate, it is important to recognize that the transmission component of the embedded generation calculation may be unstable. It can vary for any number of reasons. For example, if the characteristics of the class change because customers enter or leave AEP-VA's service territory, the class-specific load patterns crucial for calculating transmission rates change. The transmission costs billed to a competitive service provider as an AEP transmission customer could also vary depending on which customers in a class shop competitively for electricity and how these shopping customers respond to market price signals, *e.g.*, whether they change usage patterns based on the possibility of paying lower prices during specific times of a day or month.

Accordingly, we will require AEP-VA to track and study the nature and level of transmission revenues collected by the Company that are associated with the Pilot Program. The Company must compare these values to the amount of transmission revenue it has forgone because retail customers have shopped in the competitive electric market. AEP-VA and the Commission Staff shall work together in designing and conducting this study, the

results of which shall be reported to the Commission on or before April 1, 2001.

Wires Charges

The Hearing Examiner found that the sum of the unbundled charge for transmission and ancillary services, the applicable distribution rate, and the projected market price should be set equal to the Company's capped rate for each customer class, which would effectively result in a zero wires charge. Since the time of the hearing in this case, the General Assembly has amended § 56-583 A of the Code of Virginia to read in part, "No wires charge shall be less than zero." While this is a Pilot Program whose parameters need not embody all the particulars of the Restructuring Act, it is in the best interests of consumers, suppliers, and incumbent utilities for the Pilot Program to resemble the near-term full retail access competitive market.[28] If a negative wires charge will not be allowed with the start of full retail choice, it would only be confusing to have such a feature in the Pilot Program. Therefore, rather than allow a negative wires charge during the Pilot Program, we find that if the statutory calculation for a customer class yields a number that would represent a negative wires charge, a situation which we anticipate will occur in this Pilot Program, then the wires

[28] Under the Restructuring Act, wires charges will cease to be collected altogether on July 1, 2007.

charge shall be set at zero (0) for that customer class for the duration of the Pilot Program.

Competitive Metering and Billing

The Hearing Examiner recommended that AEP-VA be permitted to implement competitive metering and billing for large commercial and industrial pilot participants. He also recommended that these customers be allowed to contract for competitive metering and billing services directly without having a CSP as intermediary. The Hearing Examiner recommended that these competitive services not be offered to residential and small commercial customers because they must be reliably performed to avoid erosion of customer confidence in the retail access market. The Hearing Examiner further found that the Company should track and report to the Commission Staff information on competitive activity related to alternative metering and billing.

We find that, as part of the transition to retail competition, competitive metering and billing should be open to all customer classes, not just large commercial and industrial customers. For those customers selecting the competitive metering and billing options, we will allow the Company to provide credits, as proposed in the prefiled pilot tariffs, based upon the marginal cost AEP-VA would avoid by serving those customers. However, if such credits are to be given with the

start of full retail access, we will reexamine the basis of such credits and will require the Company, at that time, to provide the amount and an analysis of such credits based upon marginal cost and average embedded cost.

Concerning competitive billing, we find that there should be three scenarios under which billing should occur in the Pilot Program. First, AEP-VA could provide one consolidated bill for all services provided by the Company and CSPs. Second, a CSP could provide one consolidated bill for all services provided by itself and AEP-VA. Finally, both AEP-VA and each CSP could bill for their own services. This decision effectively will be left with the CSP, who may decide to enter the competitive generation market without desiring to provide, or without the ability to provide, billing services for itself or for AEP-VA. The Company did not propose that it would perform a billing consolidation function for the Pilot Program, but we will require the Company to do so where a CSP elects not to provide its own billing services.

The Hearing Examiner recommended that customers should be able to contract directly for competitive metering and billing services.[29] While we do not disagree with this recommendation in

[29] In AEP-VA's Response to Hearing Examiner's Report, filed March 31, 2000, Document Control No. 000410004, the Company stated that it does not oppose direct contracts between metering and billing service providers and Pilot Program customers. Rather, assuming that such direct contracts exist, the

principle, we realize that it is likely these services will be part of a bundled package offered by a CSP. We expect a customer to be able to select from among the competitive metering and billing options provided by a CSP. For example, depending on a CSP's capabilities, a customer may be able to select whether to use consolidated billing from a CSP or whether to receive separate bills from the CSP and AEP-VA. Similarly, we do not expect that a customer will be able to select a competitive metering provider autonomously at the start of the Pilot Program. However, depending upon a CSP's offerings, a customer may be able to elect to receive service from one of several competitive metering providers with which the CSP does business. As the Hearing Examiner recommended, we will require the Company to track and report information related to competitive metering and billing so that we may observe and evaluate the development of competition in these markets.

Ancillary Services

The Pilot Program proposal envisions that participants will be able to self-supply all ancillary services that can be competitively supplied under the Company's FERC OATT. The record contains discussion concerning whether AEP-VA removed the costs of all ancillary services from the Company's calculation

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Company requested that the CSP providing the generation service to the Pilot Program customer be the point of contact with AEP-VA. See pp. 10-11.

of the embedded generation rate.[30] The Hearing Examiner found that there was insufficient evidence in the record to determine if AEP-VA had, in fact, removed these costs from the embedded generation rate. He recommended that, if these costs had not already been deducted from wires charges, the Company should delete them.

We agree with the Hearing Examiner that AEP-VA should be required to permit the self-supply or third-party supply of ancillary services in accordance with the Company's FERC OATT. Additionally, we conclude that all ancillary services should be removed from any wires charge calculation to the extent such services are obtained from the Company. We find that there is evidence in the record that the Company removed from the wires charge calculation the costs for only two of the six ancillary services.[31] If customers obtain the remaining ancillary services

[30] See, *e.g.*, Comments of the Old Dominion Committee for Fair Utility Rates on the Hearing Examiner's Report, filed March 31, 2000, Document Control No. 000410012, at 21-24; AEP-VA's Response to Hearing Examiner's Report, filed March 3, 2000, Document Control No. 000410004, at 9-10.

[31] See, e.g., Exhibit LJT-6, at 4-5, stating "The capped generation component for each customer class was determined using a revenue requirement computed as the current bundled revenue requirement less . . . (ii) estimated revenue under the FERC OATT, including ancillary services required to be purchased from the Company." FERC Order 888 only requires transmission customers to purchase ancillary services (1) and (2) from the transmission provider, in this case AEP. Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (Order No. 888), order on reh'g, Order No. 888-A, 62 FR 12,274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997) (Order No. 888-A), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC

from AEP-VA pursuant to the Company's OATT and must also pay for the four services through wires charges, customers would effectively be paying twice for services received only once. Therefore, the Company's methodology could potentially result in a double collection of costs associated with certain ancillary services. While such a double collection would be clearly impermissible, we note that this will be a moot point if the wires charges are set at zero as will be the case unless market prices have dropped significantly from the level reflected in the record here.

Removal of Subsidies Among Classes

The issue of inter-class subsidies first arose in AEP-VA's latest base rates case, Case No. PUE960301. The Company proposed to unbundle its rates, placing class subsidies in the capped generation component. The Company further proposed that existing inter-class subsidies be eliminated as soon as possible.

The Hearing Examiner found that the rates based upon the settlement in Case No. PUE960301, as reflected in Staff witness E. B. Raju's testimony in this case,[32] should be used to determine Pilot Program tariffs. He found that these rates

¶ 61,046 (1998), appeal docketed, Transmission Access Policy Study Group, et al. v. FERC, Nos. 97-1715 et al. (D.C. Cir.).

[32] Exhibit EBR-9.

accurately reflect the settlement total and per class revenues as approved by the Commission in Case No. PUE960301 and that, to the extent the amount of any subsidy should be removed, such removal should await the Company's next rate case.

We agree with the Hearing Examiner that the settlement rates reflected in Mr. Raju's testimony should be used. In attempting to remove the alleged subsidies for the residential, sanctuary worship, and outdoor lighting classes, the Company increased the distribution component of rates for these classes, thereby effecting a rate increase.[33] This increase cannot occur, however, because the rates agreed upon in Case No. PUE960301 are frozen through December 31, 2000. In that case the Company proposed to remove inter-class subsidies over a three-year period, but this proposal was not part of the settlement agreed upon by the Company and other parties and was not approved by the Commission. Removal of any class subsidies may be proposed in the Company's next base rates case.

Proposed Fees

AEP-VA proposes collecting a $5.00 switching fee to be charged when a customer switches between two CSPs during the Pilot Program. The Company deems this to be a "transition cost" but proposes that individual customers creating this cost shall

[33] Exhibit LJT-6, at 7 and Schedule 1.

bear it. The Hearing Examiner recommended that this fee should be denied but that the Company should collect data recording the actual cost of performing the switching services, which data would be provided to the Staff semiannually. The Hearing Examiner found that there is no statutory provision for collecting a transition cost except through the wires charge. According to the Restructuring Act, the wires charge must be developed on a class basis because the cost of generation varies among customer classes. The Hearing Examiner found that it is not appropriate to charge individual customers within a class different wires charges to collect this transition cost.

Section 56-582 A 3 of the Code of Virginia provides:

> The capped rates established under this section shall be the rates in effect for each incumbent utility as of the effective date of this chapter, or rates subsequently placed into effect pursuant to a rate application filed by an incumbent electric utility with the Commission prior to January 1, 2001, and subsequently approved by the Commission, and made by an incumbent electric utility that is not currently bound by a rate case settlement adopted by the Commission that extends in its application beyond January 1, 2002. The Commission shall act upon such applications prior to commencement of the period of transition to customer choice, and capped rates determined pursuant to such applications shall become effective on January 1, 2001. Such rate application and the Commission's approval shall give due consideration, on a forward-looking basis, to the justness and reasonableness of rates to be effective for a period of time ending as late as July 1,

> 2007. The capped rates established under this section, which include rates, tariffs, electric service contracts, and rate programs (including experimental rates, regardless of whether they otherwise would expire), shall be such rates, tariffs, contracts, and programs of each incumbent electric utility, provided that experimental rates and rate programs may be closed to new customers upon application to the Commission.[34]

This issue was before us when considering Virginia Power's Pilot Program. As we stated there, the rate cap language is broad and definite; no exceptions are created for new or increased expenses incurred because of customer choice. Moreover, elsewhere in the Restructuring Act, where new costs are to be allocated to others, the General Assembly was quite specific.[35] Thus, new charges for customers cannot be created or imposed simply because customer choice creates or increases costs to incumbent utilities. Where, however, a utility is providing a new service, with new costs, a new charge may be appropriate.

AEP-VA's proposed $5 fee for customers who switch between CSPs during the Pilot Program is not a fee for a new service. This is a part of the cost of customer choice. Such switching fees shall not be allowed.

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[34] This statute has recently been amended in a way that does not impact our analysis of this issue. See 2000 Va. Acts ch. 991.

[35] See, e.g., § 56-594 of the Code of Virginia.

Meter Testing Charge

AEP-VA proposes to include a $15 charge for testing single phase meters and a $40 charge for testing poly phase meters when these tests are requested by a Meter Service Provider. The Hearing Examiner found that the new charges should be denied because they are similar to services currently provided under AEP-VA's tariffs. Thus, the Company may charge $15 for testing a single phase meter and $30 for testing a poly phase meter as reflected in the current tariffs. We agree with the Hearing Examiner that AEP-VA should follow its currently tariffed prices for these services.

Load Profiling

AEP-VA proposes to use statistical load profiling and balancing techniques to predict hourly loads expected to be served by each CSP on a day-ahead basis. The Company will measure and record the actual power that each CSP delivers into the AEP-VA system on that day. Then, using actual hourly loads for customers utilizing interval data recorders and using total energy consumption and estimated load profiles for smaller customers, AEP-VA will calculate the actual hourly load responsibility for each supplier. AEP-VA will then arrange financial settlement with any deviations priced out according to AEP-VA's FERC OATT.

The Hearing Examiner concurred with the Staff that this approach is reasonable. The Hearing Examiner recommended that the Staff monitor the results of the Company's load balancing and financial settlement process and that AEP-VA should provide the Staff with detailed information relating to its balancing and settlement procedures. Like the Hearing Examiner, we find this is a reasonable approach and we will adopt the Hearing Examiner's recommendations for load profiling, balancing, and settlement.

Reporting Requirements

The Hearing Examiner found that AEP-VA should report on all the information referenced in Attachment 1 to Staff Witness Diane Jenkins' prefiled testimony,[36] with few exceptions. The Hearing Examiner found that the Company should report semi-annually to the Staff on information concerning market share that the Company keeps in its normal course of business. The Hearing Examiner also found that AEP-VA should not be required to compile and report information comparing market offers if such information is public information or is not kept in the Company's normal course of business.

We agree that the Company should provide all the data listed in Ms. Jenkins' testimony, with the exceptions as noted

[36] Exhibit DWJ-8.

by the Hearing Examiner. The first report shall be due at the end of Phase I of the Company's Pilot Program, with future reports due every six months thereafter. We will need this information to evaluate the effectiveness of the Pilot Program and to resolve, for the start of full retail choice, any problems that may have arisen during the Pilot Program. We will also direct the Company to track and provide, as part of its report on customer participation, the number of customers who initially indicate interest in the Pilot Program but who do not select a CSP. Such data will allow us to evaluate how many customers either lost interest in the Pilot Program or affirmatively decided to remain under AEP-VA's capped rates rather than to select a CSP.

Regarding the market share and market offer information, we find that, if this information is necessary to evaluate the Pilot Program and is not supplied in regular reports, we may have to require the Company to provide this or other information in the future.

Other Considerations

Several of our conclusions are based in part on AEP-VA's current FERC OATT. To the extent that any FERC rate or policy changes in the future, various aspects of the Pilot Program may need to be changed accordingly.

Additionally, this Pilot Program must conform to the Pilot Program Rules established in Case No. PUE980812. Within thirty (30) days, the Company shall file with the Commission's Staff a plan to conform its Pilot Program to the Pilot Program Rules. We note that some of those rules refer to the Virginia Electronic Data Transfer Working Group ("VAEDT"), a body organized to develop electronic standards for all participants in the Virginia electric industry. This group also may consider business rules or practices that govern the electronic standards it develops. To the extent required by the Pilot Program rules, we expect the Company to conform its Pilot Program to such standards and practices as recommended by the VAEDT.

Accordingly, IT IS ORDERED THAT:

(1) The April 6, 2000, Request for Leave to File Comments on Hearing Examiner's Report, filed by Michel King, is hereby granted.

(2) The March 10, 2000, Hearing Examiner's recommendations are hereby adopted except as modified herein.

(3) The Pilot Program shall begin on October 1, 2000, and shall end when the participants are allowed to choose their competitive suppliers on a non-pilot basis.

(4) The size of the Pilot Program shall be adjusted to the level recommended by the Hearing Examiner, with Phase II of the Pilot Program beginning on March 1, 2001.

(5) Class participation for the Pilot Program shall be allocated proportionally based upon the total number of kWh for each class, as discussed herein.

(6) Pilot Program enrollment shall be determined based on the maximum amount of kWh that actually has been enrolled by CSPs. Customers indicating interest in the Pilot Program but not selecting a CSP shall not be counted against the total number of customers eligible to select a CSP.

(7) The projected market price for generation shall be set by considering the market prices at each of the five trading hubs or areas used in the Staff's methodology, with projected market prices based on an average of the two of these five trading areas with the highest market prices.

(8) As discussed herein, AEP-VA shall work with the Commission Staff to track and study its current transmission losses, transmission charges, and other ancillary service costs and submit a detailed report of these costs and the basis therefor on or before April 1, 2001.

(9) The projected market prices for generation shall be established by the Commission Staff and AEP-VA, in accordance with the principles set forth in this Order, sixty (60) days prior to the start of Phase I of the Pilot Program and shall remain in effect for the duration of the Pilot Program.

(10) Unbundled transmission rates for the Pilot Program shall reflect the Company-determined transmission component by class based on the FERC OATT.

(11) As discussed herein, AEP-VA shall work with the Commission Staff to design and conduct a study of the nature and level of transmission revenues the Company collects that are associated with the Pilot Program and shall compare these revenues with the amount of transmission revenues the Company has forgone from customers choosing competitive suppliers. AEP-VA shall report its findings to the Commission on or before April 1, 2001.

(12) If the wires charge calculation set forth in § 56-583 A of the Code of Virginia results in a negative number, AEP-VA's wires charges shall be set at zero (0) for the duration of the Pilot Program.

(13) Competitive metering and billing shall be allowed for all customer classes as discussed herein.

(14) Billing for Pilot Program participants shall occur either by AEP-VA providing one consolidated bill for all energy services, by a CSP providing one consolidated bill for all energy services, or by both AEP-VA and CSPs billing for their own services. The choice of billing method and meter service provider shall be left to the CSP and, where applicable, to the customer.

(15) The settlement class rates of return as recommended by the Hearing Examiner shall be used when determining Pilot Program tariffs.

(16) The Company shall not charge a fee for switching customers between competitive service providers.

(17) Meter testing charges for the Pilot Program shall follow the currently tariffed prices as recommended by the Hearing Examiner.

(18) Load profiling, balancing, and settlement procedures for the Pilot Program shall follow the guidelines recommended by the Hearing Examiner.

(19) As discussed herein, AEP-VA shall file reports at the end of Phase I and every six months thereafter for the duration of the Pilot Program. These reports must contain all data as recommended by the Hearing Examiner, including information concerning the development of competitive metering and billing options, as well as data regarding the number of customers who initially indicate interest in the Pilot Program but who continue to take service under the Company's capped rates. Market share and market offer information may be requested if necessary to evaluate the Pilot Program and if not supplied in regular reports.

(20) AEP-VA shall promptly notify the Commission of any proposed changes to its FERC OATT.

(21) The Company shall file with the Commission's Staff a plan to conform the Pilot Program to the Pilot Program Rules adopted by the Commission in Case No. PUE980812 within thirty (30) days of this Order.

(22) AEP-VA shall file updated rates, rules and regulations and terms and conditions of service for the Pilot Program, in conformity with this Order, at least sixty (60) days before the start of Phase I of the Pilot Program.

(23) This matter shall remain open for the receipt of reports by AEP-VA and for other matters concerning the Pilot Program, as they may arise.